HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION NO. 25759 OF 2006

Between:

Syed Dada Peer

..... Petitioner

AND

The State of Andhra Pradesh,
Rep. By its Chief Secretary,
Hyderabad & others

.....Respondents

:: O R D E R ::

Counsel for the petitioner : Shri M. Ravindranath Reddy

Dated: 13.12.2006

Per G.S.SINGHVI, CJ

In this petition filed in the name of public interest, the petitioner has prayed for quashing proceedings dated 30.08.2005 and 22.11.2005 vide which the Andhra Pradesh State Wakf Board (for short 'the Board'), in exercise of its power under Section 18 of the Wakf Act, 1995 (for short 'the Act'), twice constituted the Managing Committee of Sultan Shaheed Dargah-cum-Idgah (for short 'the Dargah'), Atmakur and appointed respondent Nos. 4 to 14 and 15 to 27 as members.

The petitioner has averred that respondent Nos. 4 to 14 and 15 to 27 were appointed as members of the Managing Committee at the instance of public representatives. According to him, respondent Nos. 4 to 14 were appointed at the instance of Shri Kommi Lakshmaiah Naidu, local Member of Legislative Assembly and respondent Nos. 15 to 27 were appointed at the instance of Shri Anam Ramanarayana Reddy, Member of Legislative Assembly and Smt. Panabaka Lakshmi, Member of Parliament-cum-Minister of State for Minority Welfare. It is borne out from the record that proceedings dated 22.11.2005 are subject matter of challenge in Writ

Petition No.27852 of 2005 instituted by respondent Nos. 4 to 14 and a Single Judge of this Court had suspended proceedings dated 22.11.2005.

According to the petitioner, the appointment of respondent Nos. 4 to 14 and 15 to 27 as members of the Managing Committee of Dargah is contrary to the provisions of the Act and violative of the rules of natural justice.

Shri M. Ravindranath Reddy, learned counsel for the petitioner submitted that notwithstanding the pendency of Writ Petition No.27852 of 2005 filed by respondent Nos. 4 to 14 and grant of interim order by the learned Single Judge, this petition should be entertained in public interest and the appointment of all the private respondents as members of the Managing Committee of the Dargah should be quashed. He argued that the appointments made by the Board are tainted by arbitrariness and mala fides and, as such, the same are liable to be quashed. In our opinion, the writ petition is liable to be dismissed not only because we are not convinced with the locus of the petitioner to file writ petition in the name of public interest, but also because he has not explained the delay of almost one year and four months counted from the date of appointment of respondent Nos. 4 to 14 and over one year counted from the date of appointment of respondent Nos. 15 to 27 as members of the Managing Committee of the

Dargah. It is difficult to fathom reasons why the petitioner kept silent for such a long period. To us, it appears that he was silently witnessing the battle between the two groups who seems to have managed their appointment to the Managing Committee by using levers in the power corridors. If the petitioner was a public-spirited person, then he would have immediately, after issue of proceedings dated 30.08.2005, invoked jurisdiction of this Court by filing petition in public interest or by availing remedy by filing an application under Section 83 of the Act. However, the fact of the matter is that he did not avail either of the remedies and woke up from slumber only after one year of filing of Writ Petition No.27852 of 2005 by respondent Nos. 4 to 14. In our view, the delay of over one year in a matter like the present one must be treated as fatal to the petitioner's prayer because the total tenure of the Managing Committee is two years.

We are further of the view that the remedy available to the petitioner by filing an application under Section 83 of the Act is an effective alternative remedy and there is no extraordinary reason for our making a departure from the settled law that the High Court will not entertain writ petition under Article 226 of the Constitution of India, if an effective alternative remedy is available to the petitioner.

For the reasons stated above, the writ petition is dismissed. However, liberty is given to the petitioner to file

an application to act as an intervener in the pending writ petition. He may also avail the alternative remedy by filing application under Section 83 of the Act.

As a sequel to dismissal of the writ petition, W.P.M.P.Nos. 33048 and 33049 of 2006 filed by the petitioner for interim relief are also dismissed.

G.S.SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

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13.12.2006